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Southern District of New York

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**NEW YORK ATTORNEY CHARGED IN MULTIMILLION-DOLLAR
FRAUD SCHEME TO PURCHASE NATIONALLY CIRCULATED
MAGAZINE**

Preet Bharara, the United States Attorney for the Southern District of New York, Robert J. Sica, the Special Agent-in-Charge of the New York Office of the United States Secret Service, and Diego Rodriguez, Assistant Director-in-Charge of the New York Field Office of the Federal Bureau of Investigation ("FBI"), announced that HARVEY NEWKIRK, formerly counsel at a law firm in Manhattan, was arrested today for participating in a scheme to fraudulently induce lenders to provide millions of dollars to a company associated with a co-conspirator ("CC-1") for the attempted purchase of a nationally circulated magazine and related assets (the "Magazine"). NEWKIRK surrendered this morning to the Secret Service, and was presented this afternoon in Manhattan federal court before U.S. Magistrate Judge James L. Cott.

Manhattan U.S. Attorney Preet Bharara said: "As alleged, Harvey Newkirk shirked his ethical responsibilities as a lawyer when he participated in a multimillion-dollar fraud scheme, in which deception and misrepresentations were legion, in order to obtain the funds to purchase a national magazine. Fortunately, thanks to our law enforcement partners at the Secret Service and the FBI, Newkirk was apprehended and must now answer for his alleged conduct."

Secret Service Special Agent-in-Charge Robert Sica said: "The arrest of Harvey Newkirk is another example of the Secret Service's expertise in combating fraud and financial crimes. Our success in this case and other similar investigations is a result of the extraordinary work of our investigators and our close work with our network of law enforcement partners."

FBI Assistant Director-in-Charge Diego Rodriguez said: "Lying to lenders, creating fictitious documents, and purporting to be someone's attorney are serious crimes. Newkirk's alleged elaborate fabrications – in a ridiculous attempt to purchase a nationally circulated magazine – have finally been unveiled."

According to the allegations contained in the Complaint filed today in Manhattan federal court:

From August 2013 to February 2014, in connection with the potential purchase of the Magazine by a media company (the “Media Company”) associated with CC-1, NEWKIRK and CC-1 made a series of misrepresentations to lenders to induce these lenders to provide millions of dollars in capital to the Media Company for the purchase of the Magazine.

As part of the scheme, in order to mislead lenders into believing that they would receive sufficient collateral for their loans, NEWKIRK falsely promised lenders that assets owned by the father of CC-1 (the “Executive”) would be pledged as security for the loans. NEWKIRK made these promises without the authorization or knowledge of the Executive. In one instance, NEWKIRK and CC-1 provided a lender with account statements that purported to show the Executive’s holdings in the stocks of at least three publicly traded companies. NEWKIRK misled the lender into believing that the Executive’s alleged stock holdings in these companies, as reflected in the account statements, would serve as collateral for the loan. In truth, however, the account statements were fake documents and the Executive was not providing any financial support for the purchase of the Magazine.

Furthermore, after one of the lenders (“Lender-2”) placed approximately \$5.5 million in escrow at the Manhattan law firm at which NEWKIRK was then counsel (the “Law Firm”), CC-1 arranged for a fraudulent email to be sent that purported to have been from Lender-2 to NEWKIRK. In response to that fraudulent email, NEWKIRK released approximately \$4.9 million of Lender-2’s money from the escrow account to fund the Media Company’s purchase of the Magazine. NEWKIRK also attempted to forward \$535,000 of Lender-2’s money to a different potential lender, in order to pay a debt owed to that potential lender. NEWKIRK did so without Lender-2’s knowledge or authorization.

Throughout the course of the scheme, NEWKIRK repeatedly lied to lenders regarding his relationship with the Executive, falsely purporting to be the Executive’s attorney despite having met the Executive on only one prior occasion. In addition, NEWKIRK attempted to hide from the Executive the existence of a lawsuit filed by one lender, in which that lender sought to obtain the Executive’s assets that NEWKIRK had pledged to the lender without the Executive’s knowledge. NEWKIRK also falsely represented to another lender, from whom NEWKIRK and CC-1 were seeking \$20,000,000 in financing for the Magazine purchase, that approximately \$12,000,000, representing funds provided by, or secured by the personal assets of, the Executive for the Magazine purchase, had been placed in escrow at the Law Firm. In fact, no funds were ever held in escrow at the Law Firm in connection with the Magazine purchase, other than the \$5.5 million placed in escrow by Lender-2, and subsequently misappropriated by NEWKIRK.

In March 2015, during a consensual interview with law enforcement, NEWKIRK admitted that the Executive had not been NEWKIRK’s client despite NEWKIRK’s multiple representations to the contrary to various lenders throughout the course of the attempted purchase of the Magazine.

On November 4, 2014, CC-1 pled guilty before the Honorable Jed S. Rakoff to, among other things, charges related to CC-1's participation in the scheme to defraud lenders for the attempted Magazine purchase.

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NEWKIRK, 39, of New Rochelle, New York, is charged with one count of conspiracy to commit wire fraud and one count of wire fraud, each of which carries a maximum term of 20 years in prison. He is also charged with one count of aggravated identity theft, which carries a mandatory minimum and maximum sentence of two years in prison. The maximum potential sentences in this case are prescribed by Congress and are provided here for informational purposes only, as any sentencing of the defendant will be determined by the judge.

Mr. Bharara praised the investigative work of the United States Secret Service and the FBI.

The prosecution of this case is being overseen by the Office's Complex Frauds and Cybercrime Unit. Assistant U.S. Attorneys Andrew C. Adams and Sarah E. Paul are in charge of the prosecution.

The charges contained in the Complaint are merely accusations, and the defendant is presumed innocent unless and until proven guilty.

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